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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,399	01/14/2000	Michael L. Trompower	TELNP200US	8324

23623 7590 10/31/2002

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CLEVELAND, OH 44114

EXAMINER

MEHRPOUR, NAGHMEH

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 10/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/483,399Applicant(s)
Michael L TrompowerExaminer
Naghmeh MehrpourArt Unit
2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Oct 2, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: please see the attachment

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see the attachment.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 3 and 22

Claim(s) rejected: 1, 2, 4-21, and 23-35

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other: _____

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Response to Arguments

1. Applicant's arguments filed 10/02/02 have been fully considered but they are not persuasive.

In response to the applicant's argument that *Fischer does not teach PLCP header and one transmission power and the data portion at a second transmission, and Fischer is concerned with timing sequence for ramping up a transmission before sending data and ramping the transmitter down after sending data rather than transmitting two different portions of a data packet at two different transmission powers.*

In response to applicant's argument that Examiner responses that Rom teaches a method for controlling transmitter power in the wireless LAN. Rom teaches transmitting a first portion of data at first transmission and the second portion of the data at the second portion at a second portion (col 5 lines 10-16, col 6 lines 20-50, col 8 lines 34-42). Rom discloses that node 1/ base station 1 receives a first data package (first portion) from node 2/ base station 2, and node 1/ base station 1 transmits the data package⁶ (or first portion) according to received calculated (feedback signal or power level 1) power from node 2/base station 2 which can be called power level I. Rom teaches node 1/base station 1 receives the data package from node 3/base station 3, then node 1/ base station 1 retransmits the data package (second portion) according to received calculated (feedback signal/or power level 2) power form node 3/ base station 3. Initially node 1 transmit an identical data package to node 2 and node 3, however, when node 1 retransmits the same data package (with power level I) that received from node 2 to node 2, and received the data package

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from node 3 and retransmits to node 3, the data packages that have been retransmitted to node 2 and node 3 are different, since the calculated power level for each one is different. Another word the data packages (data package 1, data package 2) that were retransmitted from node 1 to node 2 and node 3 with two different power levels (power level 1 and power level 2). The data package 1 and data package 2 also can be called data portion 1 and data portion 2. Therefore, it would have been obvious that node 1 transmits data portion 1 with power level I and data portion 2 with power level II (See figure 4, col 6 lines 40-66). Rom does not teach that the data is PLCP. However Fischer explains what kind of data PLCP is, and what is the use of it. Therefore it is obvious that we can combined the method of data transmission of Rom with Fischer data (PLCP), in order to provide different power level for different power of data packet for the purpose of the improving the performance of the wireless system.

In response to applicant's argument that the combination of Rom and Fischer dose not make obvious rejection, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

2. **Any responses to this action should be mailed to:**

Commissioner of Patents and Trademarks

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Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications indented for entry)

Or:

(703) 308-6306, (for informal or draft communications, please label

“PROPOSED” or “DRAFT”)


Hand-delivered responses should be brought to Crystal Park II. 2121 Crystal Drive, Arlington. Va., sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Melody Mehrpour whose telephone number is (703) 308-7159. The examiner can normally be reached on Monday through Thursday (first week of bi-week) and Monday through Friday (second week of bi-week) from 6:30 a.m. to 5:00 p.m.

If attempt to reach the examiner are unsuccessful the examiner's supervisor, Edward F. Urban can be reached (703)305-4385.

NM

Oct 24, 2002


EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600